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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

MARTIN MIJIA RUVALCABA,

Defendant and Appellant.

E046834

(Super.Ct.No. SWF025177)

OPINION

APPEAL from the Superior Court of Riverside County. Michael S. Hider, Judge.
(Retired judge of the Merced Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6
of the Cal. Const.) Affirmed as modified.

Robert F. Somers, under appointment by the Court of Appeal, for Defendant and
Appellant.

Edmund G. Brown, Jr., Attorney General, and Gary W. Schons, Assistant Attorney
General, for Plaintiff and Respondent.

Defendant Martin Mijia Ruvalcaba pled guilty to transporting marijuana. (Health &
Saf. Code, § 11360, subd. (a).) In accordance with a plea bargain, the court granted

defendant probation, with a requirement that defendant serve 60 days in jail. Defendant contends that probation condition No. 6, which prohibits him from associating with unrelated persons on probation or parole, is unconstitutionally vague and overbroad. The People agree. We modify the disputed probation condition and otherwise affirm the judgment.

BACKGROUND

Defendant consented to having his motor home searched. Approximately 154 grams of marijuana were found. No “pay-owe sheets,” scales, or cell phones were found, and defendant claimed it was all for his personal use.

Probation condition No. 6 requires that defendant “[n]ot associate with any unrelated person on probation or parole.”

DISCUSSION

Defendant contends condition No. 6 of his probation should be modified to include a knowledge requirement. The People agree on the basis that condition No. 6 is unconstitutionally vague and overbroad. We agree that the condition is unconstitutionally overbroad because it does not include the element of knowledge.

“A probation condition that imposes limitations on a person’s constitutional rights must closely tailor those limitations to the purpose of the condition to avoid being invalidated as unconstitutionally overbroad.” (*In re Sheena K.* (2007) 40 Cal.4th 875, 890.)

Requiring defendant to refrain from associating with people on parole and probation infringes on defendant’s constitutional right of freedom of association. (U.S. Const., 1st Amend.; see also *People v. Garcia* (1993) 19 Cal.App.4th 97, 102.) Consequently, the

condition must be narrowly tailored. The state interest for which the condition must be narrowly tailored is defendant's rehabilitation. (*People v. Hackler* (1993) 13 Cal.App.4th 1049, 1058.) The state's interest in defendant's rehabilitation would not be served by punishing defendant for associating with people who, unknown to defendant, are on probation or parole. Thus, condition No. 6 should be modified to include a knowledge requirement.

We conclude that the probation condition must be modified to reflect that defendant must not associate with any unrelated person whom defendant knows to be on probation or parole.

DISPOSITION

Condition No. 6 of defendant's probation is modified to read: "Not associate with any unrelated person whom defendant knows to be on probation or parole." In all other respects, the judgment is affirmed.

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RAMIREZ

P. J.

We concur:

GAUT

J.

KING

J.